

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-10091-JLT

DORNELL WIGFALL,  
Plaintiff,

v.

MICHAEL SHEEHAN, et al.,  
Defendants.

**DEFENDANTS PETER ALLEN AND DAVID NOLAN'S MOTION TO DISMISS FOR  
FAILURE TO COMPLY WITH THIS COURT'S FEBRUARY 22, 2006 ORDER**

Defendants Peter Allen and David Nolan, former Superintendents of MCI-Cedar Junction ("Defendants Allen and Nolan"),<sup>1</sup> hereby move to dismiss plaintiff's complaint for failure to comply with this Court's February 22, 2006 Order.

On July 11, 2005 Defendants Allen and Nolan filed a motion for more definite statement, which this Court granted on September 12, 2005. (Docket Sheet, paper nos. 15, 16.) Fed. R. Civ. P. 12(e) provides that "[I]f the motion [for more definite statement] is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just." On November 9, 2006 Defendants Allen and Nolan filed a motion to dismiss, given plaintiff's failure to comply with the Court Order to file a more definite statement, and for his failure to serve counsel for the defendants with a copy of the supplement to his complaint. (Docket Sheet, paper no. 17.)

On February 2, 2006 this Court issued another Order, stating that if plaintiff does not comply and file a more definite statement by March 1, 2006, the case will be dismissed. (Docket

Sheet, Paper No. 20.) Rather than comply with the Order, plaintiff filed a request for an extension of time. (Docket Sheet, Paper No. 22.)

On February 22, 2006 this Court issued another Order, granting plaintiff's motion for extension of time, and stating that plaintiff must comply with this Court's Order by April 1, 2006, and if plaintiff does not so comply, this case will be dismissed. Rather than comply with this most recent Order, plaintiff filed a second request for an extension of time. (Docket Sheet, Paper No. 24.)

Given plaintiff's failure to comply with this Court's February 22, 2006 Order, defendants move that this case be dismissed.

Respectfully submitted,

NANCY ANKERS WHITE  
Special Assistant Attorney General

DATED: April 6, 2006

/s/ C. Raye Poole  
C. Raye Poole  
B.B.O. # 632719  
Department of Correction  
Legal Division  
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Boston, MA 02110  
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Certificate of Service

I, C. Raye Poole, counsel for defendants Allen and Nolan, hereby certify that on this 6<sup>th</sup> day of April 2006, I served a copy of the herein motion by first class mail, postage prepaid, on the plaintiff, Dornell Wigfall W47068, at his last known address, MCI-Cedar Junction, PO Box 100, South Walpole, Massachusetts 02071

/s/ C. Raye Poole  
C. Raye Poole

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<sup>1</sup> Defendants Allen and Nolan are the only named defendants who have been served.